

# **D R A F T**

## **STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2020-**

### **APPROVAL OF A MEMORANDUM OF UNDERSTANDING (MOU) FOR THIRD-PARTY LABORATORY ASSESSORS AND DELEGATION OF AUTHORITY TO ADMINISTER THE AGREEMENT**

#### **WHEREAS:**

1. The State Water Resources Control Board's (State Water Board) Division of Drinking Water (DDW) is administering the Environmental Laboratory Accreditation Program (ELAP) as a condition of maintaining primary enforcement authority, delegated by the United States Environmental Protection Agency.
2. ELAP is charged with accrediting laboratories for the analysis of environmental samples for regulatory purposes. This authority is established by the 1994 Environmental Laboratory Accreditation Act (Health and Safety Code, Section 100825-10090), and Chapter 19 of Division 4 of Title 22 of the California Code of Regulations (CCR).
3. A laboratory must demonstrate its competency in laboratory management and conformance with prescribed analytical methods to be granted accreditation. A key tool for determining a laboratory's competency is the performance of routine on-site assessments.
4. Health and Safety Code, section 100837 authorizes the State Water Board to utilize third-party assessment firms (TPA) to perform routine on-site assessments.
5. The State Board adopted new ELAP regulations on May 5, 2020 that require laboratories utilizing sophisticated technology [as defined in section 64801(v)] to contract with a TPA to perform their routine on-site assessment. Laboratories not using sophisticated technology also have the option of using a TPA for routine on-site assessments if they choose.
6. Environmental and public health regulations are quickly evolving fields. TPA firms have industry-leading technical expertise, which allows them to quickly assess new and emerging methods and technologies. This is critical to ensure that California regulatory agencies can quickly obtain reliable data for better protection of public health and the environment.
7. Laboratories using TPAs may find additional benefit beyond the benefit associated with having routine on-site assessments performed by expert laboratory assessors. There are both business and technical benefits to having access to services provided by TPAs such as preassessments, priority scheduling, and rapid completion times. These benefits may additionally improve laboratories and respectively, the data quality produced by them.

## **DRAFT**

8. Following adoption of the regulations, ELAP launched a compliance assistance initiative, which included information and materials on the use of TPAs in California to provide a seamless transition for the laboratory community. A webinar, a series of Frequently Asked Questions documents, and a timeline infographic were released in June 2020. ELAP is currently holding individual transition appointments with accredited laboratories to answer questions about the new requirements, including the use of TPAs.
9. The State Board directed ELAP to develop terms and conditions third-party assessment firms must meet to provide services to laboratories in California, and the process and procedures that laboratories must follow for use of third-party assessors. As part of that process, ELAP solicited input from stakeholders, including accredited laboratories and TPAs.
10. ELAP has developed a Memorandum of Understanding to define the terms and conditions and outline the process and procedures that the TPAs must follow. ELAP requested input from stakeholders on the draft and made changes based on feedback.
11. Compliance with the Memorandum of Understanding is required for TPA firms to provide services to California laboratories.

THEREFORE, BE IT RESOLVED THAT:

The State Water Board:

1. Approves the proposed Memorandum of Understanding, attached hereto.
2. Delegates authority to the Deputy Director of the Division of Drinking Water and the Chief of the Environmental Laboratory Accreditation Program to administer the Memorandum of Understanding.

## **CERTIFICATION**

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on September 15, 2020.

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Jeanine Townsend  
Clerk to the Board